



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,202	03/19/2004	Kevin M. Daniel	3691-618	6513

23117 7590 10/24/2005

NIXON & VANDERHYE, PC  
901 NORTH GLEBE ROAD, 11TH FLOOR  
ARLINGTON, VA 22203

EXAMINER
----------

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
----------	--------------

3634

DATE MAILED: 10/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/804,202

Applicant(s)

DANIEL ET AL.

Examiner

Gregory J. Strimbu

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/12/05</u> . | 6) <input type="checkbox"/> Other: _____  |

### ***Drawings***

The drawing correction filed July 21, 2005 has been approved. The drawings, however, are still objected to because the drawings include superfluous lettering such as "cover" in figures 4-6, "Appliqué" in figure 14 and "Traditional Slider" in figure 15. Since the cover as shown in figures 4-6 comprises part of the invention it should be referred to with reference characters and lead lines. Additionally, the superfluous lettering such as "Appliqué" in figure 10 should also be deleted since the appliqué in figure 10 is already identified by the reference characters 16e and 18e. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it fails to describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. Note that the abstract fails to mention the latch assembly. Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

Claim 1 is objected to because "the sliding window" on line 6 should be changed to --the sliding window panel-- to agree with "a sliding window panel" set forth on line 4 of claim 1. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "gap(s)" on line 11 of claim 1 render the claims indefinite because it is unclear how there can be more than one gap at one edge of the window panel. In other words, how can one edge of the window panel have more than one gap? Recitations such as "and/or" on line 13 of claim 2 render the claims indefinite because it is unclear if the applicant is setting forth apertures and cutouts or if the applicant is setting forth apertures or cutouts. Recitations such as "a vehicle" on line 2 of claim 4 render the claims indefinite because it is unclear if the applicant is referring to the vehicle set forth above or is attempting to set forth another vehicle in addition to the one set forth above. Recitations such as "or" on line 2 of claim 14 render the claims indefinite because it is unclear which one of the non-equivalent alternatives the applicant is attempting to positively set forth.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3634

Claims 1 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buening '214 in view of Ryan et al. Buening '214 discloses a flush-closing multi-panel window assembly for a vehicle, the flush-closing multi-panel window assembly comprising: first 16 and second 24 fixed window panels, a sliding window panel 32 of the window assembly, the sliding window panel being provided between the first and second fixed window panels when the sliding window panel is in a closed position, the sliding window being flush with the first and second fixed window panels when in the closed position as shown in figure 2; a seal carrier 41 supported by the sliding window panel; and an injection molded flexible seal 45 supported by at least the seal carrier, wherein the injection molded seal extends around an entire periphery of the sliding window panel as shown in figure 12 so as to cover gaps adjacent the edge of the sliding window panel and wherein the seal carrier and the seal are made of different materials and are not integrally formed with one another, a frame 12 comprises an upper frame member (not numbered, but shown in figure 1) and a lower frame member (not numbered, but shown in figure 1), each of the frame members includes a track 56 or 58. Buening '214 is silent concerning a bulb seal.

However, Ryan et al. discloses a bulb seal 10 for sealing a sliding closure, the bulb seal comprising a single piece.

It would have been obvious to one of ordinary skill in the art to provide Buening '214 with a bulb seal, as taught by Ryan et al., to provide a better seal around the sliding window panel.

The injection molding limitation recited in claim 8 is no more than a product by process limitation and is therefore anticipated by the product as set forth above.

Claims 1, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buening '214 in view of Kondolf. Buening '214 discloses a flush-closing multi-panel window assembly for a vehicle, the flush-closing multi-panel window assembly comprising: first 16 and second 24 fixed window panels, a sliding window panel 32 of the window assembly, the sliding window panel being provided between the first and second fixed window panels when the sliding window panel is in a closed position, the sliding window being flush with the first and second fixed window panels when in the closed position as shown in figure 2; a seal carrier 41 supported by the sliding window panel; and an injection molded flexible seal 45 supported by at least the seal carrier, wherein the injection molded seal extends around an entire periphery of the sliding window panel as shown in figure 12 so as to cover gaps adjacent the edge of the sliding window panel and wherein the seal carrier and the seal are made of different materials and are not integrally formed with one another. Buening '214 is silent concerning a bulb seal.

However, Kondolf discloses a bulb seal comprising a base 62 having a recess (not numbered, but shown in figure 8) for receiving an adhesive and having a recess (not numbered, but shown in figure 8) for receiving an end of an arcuate strip 61.

It would have been obvious to one of ordinary skill in the art to provide the seal of Buening '214 with an arcuate shape and recesses, as taught by Kondolf, to increase the

Art Unit: 3634

surface of the seal for sealing, to reduce the weight of the seal and to enable the base and the seal strip to be manufactured from different materials, respectively.

Claims 2-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buening '214 in view of Ryan et al. as applied to claims 1 and 7-9 above, and further in view of Schneider. Schneider discloses a latch assembly including first and second spring biased pins 62 adapted to slide in tracks (not numbered, but shown in figure 2) of left and right frame members (not numbered, but shown in figures 1 and 2), respectively, during opening and closing of a sliding window panel 31 and wherein the latch assembly further includes first and second selectively actuatable members adapted to be moved toward one another so that when the first and second selectively actuatable members are moved toward one another the first and second pins are caused to exit first and second apertures and/or cut-outs 74 defined in the frame members, respectively, and the sliding window panel can thereafter be slid in order to open the sliding window panel.

It would have been obvious to one of ordinary skill in the art to provide Buening '214, as modified above, with a latch mechanism, as taught by Schneider, to increase the security of the window system.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buening '214 in view of Ryan et al. as applied to claims 1 and 7-9 above, and



Art Unit: 3634

further in view of Lyons et al. Lyons et al. discloses a multi-panel window assembly comprising appliqués 40 and 50.

It would have been obvious to one of ordinary skill in the art to provide Buening '214, as modified above, with appliqués, as taught by Ryan et al., to improve the appearance of the window assembly.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buening '214 in view of Kondolf as applied to claims 1, 12 and 13 above, and further in view of Bright. Bright discloses a seal comprising a recess defined in a base portion thereof and an adhesive 26 disposed in the recess for mounting the seal.

It would have been obvious to one of ordinary skill in the art to provide Buening '214, as modified above, with a mounting means, as taught by Bright, to increase the ease with which the seal can be mounted.

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wenner et al. '191 in view of Kelly. Wenner et al. '191 disclose a flush-closing multi-panel window assembly for a vehicle, the flush-closing multi-panel window assembly comprising: first 26 and second 32 fixed window panels, a sliding window panel 60 that is provided between the first and second fixed window panels when the sliding window panel is in a closed position, the sliding window being flush with the first and second window panels when in the closed position, first 22 and second 24 appliqués located above and below the sliding window panel when the sliding window panel is in the

Art Unit: 3634

closed position, and wherein at least one of the first and second appliqué includes a main body portion 40 comprising a first polymer based material and an abutting portion 18 comprising a second polymer based material, wherein the abutting portion of the appliqué is located at an edge of the appliqué (not numbered, but shown in figure 5 as the upper right hand corner of the appliqué) which abuts a corresponding peripheral edge 52 of at least one of the fixed window panels 32. Wenner et al. '191 is silent concerning the respective hardness of the first and second polymer based materials.

However, Kelly discloses an appliqué 22 comprising a main body portion 32 comprising a first polymer based material and an abutting portion 34 comprising a second polymer based material that is softer than the first polymer based material.

It would have been obvious to one of ordinary skill in the art to provide the appliqué of Wenner et al. '191 with various hardness, as taught by Kelly, to increase the sealing ability of the appliqué without sacrificing the strength of the appliqué.

### ***Response to Arguments***

Applicant's arguments filed July 21, 2005 have been fully considered but they are not persuasive.

The applicant's comments concerning Warner et al. are moot in view of the new grounds of rejection.

With respect to the applicant's comments concerning "and/or", the examiner respectfully disagrees. As stated in the applicant's comments, "and/or" means "and" or "or". Therefore, it is unclear whether claims, such as claim 2, only require one of

Art Unit: 3634

apertures or cutouts or the claims require both apertures and cutouts. In other words, it is unclear if claim 2 requires both apertures and cutouts or if claim 2 requires only one of the apertures or cutouts. Accordingly, the metes and bounds of the claims, such as claim 2, cannot be ascertained since it is unknown if the “and” option or the “or” option is being used.

The applicant's comments concerning the combination of Buening '214 and Schneider are moot in view of the new grounds of rejection.

With respect to the applicant's comments concerning the combination of teachings of Wenner et al. '191 and Kelly, the examiner respectfully disagrees. Wenner et al. '191, in figure 5, shows an abutting portion 18 of the appliqué being located at an edge of the appliqué which is not numbered but is shown in the upper right hand corner of the figure abutting the edge of the fixed pane 32. It should be noted that claim 15 only requires the edge of the appliqué to abut the peripheral edge of the fixed window panel.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. The applicant amended claim 1 to include the new limitation of the “seal carrier and the bulb seal . . . formed with one another” which necessitated the new grounds of rejection. See lines 11-12 of claim 1. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

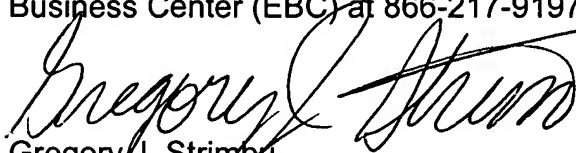
Art Unit: 3634

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory J. Strimbu  
Primary Examiner  
Art Unit 3634  
October 12, 2005